

*United States Attorney
Southern District of New York*

November 19, 2019

BY ECF & ELECTRONIC MAIL

Honorable Edgardo Ramos
United States District Judge
Southern District of New York
40 Foley Square
New York, New York 10007

Re: *United States v. Mark S. Scott*, S10 17 Cr. 630 (ER)

Dear Judge Ramos:

The Government submits this brief letter to request a small addition to the good faith instruction contained on page 26 of the Court’s updated jury instructions. The instruction as drafted is likely to be confusing to the jury in that it suggests that there is some additional burden on the Government beyond proving the defendant’s knowledge and requisite intent for each of the charged offenses. In fact, the concept of good faith is simply another way of describing the knowledge and intent elements of the offenses. *See United States v. Al Morshed*, 69 F. App’x 13, 16 (2d Cir. 2003) (noting that the standard jury instructions on knowledge and intent “capture the essence of the good faith defense, for someone cannot believe in good faith that he was acting properly and within the law if he knowingly” and intentionally committed the charged offense). In order to avoid juror confusion, the Government respectfully requests that the Court add the following sentence to the end of the current good faith instruction: “If you find that the Government has proven beyond a reasonable doubt that the defendant acted knowingly and with the requisite intent, you must find that he did not act in good faith.”

Respectfully submitted,

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